

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JERRI LEIGH JACKSON,)	
)	
Plaintiff,)	
)	
v.)	NO. 3:09-0614
)	
COVENANT TRANSPORT, et al.,)	Judge Trauger/Bryant
)	
Defendants.)	

TO: The Honorable Aleta A. Trauger

REPORT AND RECOMMENDATION

This case has been referred to the undersigned Magistrate Judge for a frivolity review under 28 U.S.C. § 1915(e)(2)(B) (Docket Entry No. 4).

From a review of the complaint, plaintiff Jerri Leigh Jackson has filed this action against Covenant Transport, Volunteer Training Center Trucking School, and the Equal Employment Opportunity Commission, pursuant to Title VII of the Civil Rights Act of 1984 and the Civil Rights of 1991. The complaint also purports to assert claims under the Americans With Disabilities Act. In summary, plaintiff alleges that she was wrongfully denied employment as a truck driver as the result of illegal employment discrimination based upon her age, gender, religious history and , disability, and in retaliation for her previously filing charges of discrimination and employment discrimination lawsuits against other trucking companies. Plaintiff has attached to her complaint a copy of the right-to-sue letter issued by the EEOC relating to her

charge of discrimination against Covenant Transport (Docket Entry No. 1-1).

From a review of the complaint and related papers, the undersigned Magistrate Judge finds that the action, on its face, is not frivolous or malicious, nor does it fail to state a claim upon which relief may be granted against defendant Covenant Transport. However, with respect to the Equal Employment Opportunity Commission and Volunteer Training Center Trucking School, the undersigned Magistrate Judge finds that this action, on its face, is frivolous and fails to state a claim upon which relief may be granted against these two proposed defendants. As grounds for this finding, the Court observes that plaintiff's complaint fails to assert that she sought and was denied employment by either of these two parties. Moreover, the complaint fails to allege that plaintiff previously has lodged a charge of discrimination against either the EEOC of Volunteer Training Center Trucking School, which is a prerequisite for maintaining an action under Title VII. For these reasons, the undersigned Magistrate Judge finds that the complaint fails to state a claim under Title VII or the ADA against these parties.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge **RECOMMENDS** that this case be allowed to proceed, and that service of process should issue, against defendant Covenant Transport only. For the reasons stated above, the undersigned

Magistrate Judge **RECOMMENDS** that the complaint should be **DISMISSED** as frivolous against the Equal Employment Opportunity Commission and Volunteer Training Center Trucking School.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

ENTERED this 12th day of November 2009.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge